

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:07CR237
	§	
LIBERATO VENTURA-MEDINA	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 15, 2011 to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Camelia Lopez.

On July 8, 2008, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 24 months imprisonment followed by a 24-month term of supervised release, for the offense of reentry of a previously deported alien. Defendant began his term of supervision on July 28, 2009.

On September 21, 2010, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 38). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state or local crime; and (2) As a condition of supervised release, immediately upon release from

confinement, Defendant shall be surrendered to a duly authorized immigration official for deportation proceedings in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.* If ordered deported, Defendant shall remain outside of the United States. In the event Defendant is not deported, or for any reason re-enters the country after having been deported, Defendant shall comply with all conditions of supervised release, to include reporting to the nearest U.S. Probation Office within 72 hours of release by immigration officials or re-entry into the country.

The Petition alleges that Defendant committed the following violations: (1) On August 21, 2010, Defendant was arrested in Dallas, Texas, by the Dallas Police Department, for unauthorized use of a vehicle (a state jail felony); failure to identify fugitive from justice (a Class B misdemeanor); and a probation violation -- unauthorized use of a vehicle (Dallas County Case No. F-0666450Y). The new criminal conduct has been filed with the District Attorney's Office for prosecution, and September 29, 2010, is the next court date for the probation violation; and (2) On July 28, 2009, Defendant, who is a citizen of Honduras, was deported from the United States, and on August 21, 2010, Defendant was in the United States following his deportation, as evidenced by his arrest in Dallas, Texas.

At the hearing, Defendant entered a plea of true to all alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 15, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirteen (13) months to be served consecutively to any state sentence imposed, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Three Rivers, Texas, if appropriate.

SIGNED this 21st day of April, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE